

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CYPRESS INSURANCE COMPANY, as  
subrogee of Microsoft Corporation,

Plaintiff,

v.

SK HYNIX AMERICA INC.,

Defendant.

Case No.: 2:17-cv-00467-RAJ

**NEUTRAL STATEMENT OF THE  
CASE**

In accordance with the Court's Order of January 18, 2019, the parties submit the following Agreed Neutral Statement of the Case for the Court's consideration.

DATED this 25th day of February, 2019.

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NEUTRAL STATEMENT OF THE CASE - 1

CASE NO.: 2:17-CV-00467-RAJ

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NEUTRAL STATEMENT OF THE CASE - 2

CASE NO.: 2:17-CV-00467-RAJ

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1 This lawsuit arises out of a fire which occurred on September 4, 2013 at a DRAM  
2 chip fabrication facility located in Wuxi, China and operated by SK Hynix America, Inc.'s  
3 parent company. At the time of the fire, SK Hynix America, Inc. was supplying DRAM  
4 chips to Microsoft for use in Microsoft products, including for the launch of the Xbox One  
5 game console. At the time of the fire, Cypress Insurance Company ("Cypress") insured  
6 Microsoft, including providing coverage for contingent time element costs, which are costs  
7 incurred to avoid disruptions in supply due to damages sustained at the suppliers' facilities.  
8

9 After the fire, Microsoft made a claim under the Cypress policy for the increased  
10 cost to purchase DRAM chips from suppliers as a result of Microsoft's inability to obtain  
11 DRAM chips from SK Hynix America, Inc. Microsoft also made claims for other costs,  
12 which are not part of the damages claims here.

13 Cypress, which is the Plaintiff in this case, paid these claims and became  
14 subrogated to certain rights and remedies of Microsoft. As a result, Cypress seeks to  
15 recover certain amounts it paid to Microsoft under the insurance policy.  
16

17 Microsoft and Hynix entered into a contract for the supply of DRAM chips in June  
18 2013. Cypress claims that Microsoft sustained certain damages as a result of one or more  
19 breaches of that contract by Hynix, and Cypress seeks a judgment against Hynix for these  
20 damages.  
21

22 Hynix denies these claims and also disputes the amount of damages Cypress is  
23 claiming. Hynix also claims among other defenses that Cypress does not have standing to  
24 assert the claims against Hynix because it had no obligation to pay Microsoft's insurance  
25 claim.  
26

NEUTRAL STATEMENT OF THE CASE - 3

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Cypress denies these defenses asserted by Hynix.

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NEUTRAL STATEMENT OF THE CASE - 4

CASE NO.: 2:17-CV-00467-RAJ

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